

BARCLAY DAMON LLP

Michael J. Murphy
Partner

March 18, 2020

VIA ECF

Hon. Christian F. Hummel
United States District Court
Northern District of New York
445 Broadway
Albany, NY 12207

Re: Jane Doe v. Union College, et al.
Civil Action No. 1:19-cv-00284 (GFS/CFH)
Our file: 3106024

Dear Magistrate Judge Hummel:

As the Court is aware, our firm represents the defendants relative to the above-referenced matter. We are writing in response to the Order dated March 16, 2020 directing answers to be filed on behalf of all defendants, including Trish Williams, Melissa Kelley, and Darcy Czajka by March 19, 2020. As will be explained below, these individuals are no longer defendants in this action. For this reason, the defendants request an amendment of the March 16, 2020 Order to reflect that an answer need be filed only for the remaining defendants, Union College and the Board of Trustees of Union College. We are also requesting a three-week extension of time to answer.

Plaintiff commenced this action by filing a complaint on March 1, 2019 (Dkt. 1). This complaint asserted the following causes of action against individually-named defendants, Trish Williams, Melissa Kelley, and Darcy Czajka: (1) Title IX – Hostile Education Environment – Sexually Hostile Culture; (2) Title IX – Deliberate Indifference; (3) Negligence; (4) Intentional and/or Negligent Infliction of Emotional Distress; and (5) Breach of Contract. The defendants moved to dismiss this complaint, in part, as it improperly asserted causes of action against the individually-named defendants (Dkt. 13-3).

Plaintiff subsequently filed an amended complaint on April 22, 2019 (Dkt. 19). The amended complaint states that the causes of action asserted against “the University Defendants” refer to Union College and the Union College Board of Trustees (Dkt. 19, fn. 2). Only claims against the “Defendants” include both the “University Defendants” and the individually-named defendants, Williams, Kelley and Czajka (Dkt. 19, fn. 3). The amended complaint only asserts the following causes of action against the individually-named defendants: (1) Negligence; and (2) Intentional and/or Negligent Infliction of Emotional Distress (Dkt. 19).

Hon. Christian F. Hummel
March 18, 2020
Page 2

The defendants moved to dismiss the amended complaint as well (Dkt. 24-3). This motion also sought dismissal of the amended complaint in its entirety, including the claims asserted against the individually-named defendants (Dkt. 24-3, Points II, III, and IV). Plaintiff's opposition to the defendants' motion to dismiss states that plaintiff's Title IX claims are asserted only against the University Defendants, and not against Trish Williams, Melissa Kelley and Darcy Czajka (Dkt. 26, fn. 5).

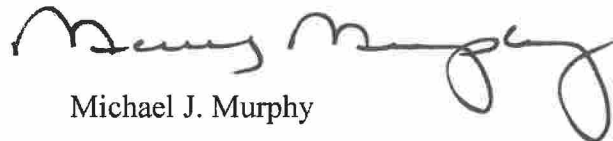
The Court issued its Decision and Order on the defendants' motion to dismiss on March 5, 2020 (Dkt. 34). The Court dismissed the following causes of action: (1) Title IX – hostile education environment; (2) negligence; and (3) negligent and/or intentional infliction of emotional distress (Dkt. 34, p. 25). As a result of this decision, the only remaining claims in this action are breach of contract and Title IX – deliberate indifference. Id. Neither of these causes of action are asserted against the individually-named defendants (Dkt. 19, pp. 42, 46).

Based on the foregoing, the defendants request an amendment of the March 16, 2020 Order to reflect that an answer need only be filed by defendants, Union College and the Board of Trustees of Union College.

In addition to the foregoing, the defendants request a three-week extension of time to submit their answer, until April 9, 2020. The parties have had an opportunity to confer, and plaintiff has consented to this request.

Thank you for your consideration of this request.

Very truly yours,



Michael J. Murphy

cc: **Via ECF**
Gabrielle Vinci, Esq.
Nesenoff & Miltenberg, LLP
363 Seventh Avenue, 5th Floor
New York, NY 10001